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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,681	04/04/2006	Sacha Felder	3621	1764

7590 02/04/2011  
Striker, Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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02/04/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/574,681	FELDER, SACHA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Clark F. Dexter	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 2,7-9,11-18,22,23,26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10,19-21,24,25,28 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. The amendment filed on October 24, 2010 has been entered.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

2. Claims 1, 3-6, 10, 19-21, 24, 25, 28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 21, the recitation "said on-off switch" is vague and indefinite as to which one it refers; in lines 21-22, the recitation "said further on-off switch" is vague and indefinite as to which one it refers; in line 22, the recitation "is partially integrated into the detachable top handle" is vague and indefinite as how it further defines the claimed invention and appears to be redundant; in lines 22-23, the recitation "said on-off switch and said further on-off switch" is vague as to which switch each refers.

In claim 3, line 2, the recitation "an on-off switch" is vague as to whether it refers to one of those previously set forth or to another such switch; in lines 2-3, the recitation "is at least partially integrated into said top handle" is vague and indefinite as how it further defines the claimed invention and appears to be redundant in view of claim 1.

In claim 4, line 2, the recitation "said on-off switch" is vague as to which switch each refers.

In claim 10, lines 3-4, the recitation “a second on-off switch at least partially integrated into the barrel grip” is vague as to whether it refers to one of the switches previously set forth or to another such switch.

In claim 28, lines 5-6, the recitation “composed of said actuating button” is vague and indefinite as to whether it refers to the locking mechanism or the on-off switch.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen, pn 6,653,584.

Chen discloses a tool with almost every structural limitation of the claimed invention including:

a handle (e.g., 12),

an on-off switch (e.g., 14, see col. 2, lines 53-55) at least partially integrated into said handle, wherein said on-off switch is composed of an actuating button (e.g., 14);  
and

a locking mechanism (e.g., 21) for locking said on-off switch composed of said actuating button;

wherein said locking mechanism has at least two decoupled actuating elements (e.g., 22, 23), wherein said actuating elements are situated on opposite sides of said handle, wherein said opposite sides of said handle are located in two parallel planes and wherein said on-off switch is located on a further side of said handle located on a plane that is perpendicular to the planes of said opposite sides of said handle, and wherein each of said at least two actuating elements comprises a respective pin (e.g., 221, 231, wherein each of said pins is configured to be inserted independently of each other into a through opening (e.g., 251) of said actuating button for locking said actuating button in an on-position;

[claim 30] wherein said actuating elements are comprised of separate components (e.g., 22, 23).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable Happe, pn 2,711,461.

Happe discloses a tool with almost every structural limitation of the claimed invention including:

a handle (e.g., 18,19; 61,66,67),

an on-off switch (e.g., 27,30; 27,30) at least partially integrated into said handle, wherein said on-off switch is composed of an actuating button (e.g., 30; 30); and a locking mechanism (e.g., 36-38, see Fig. 3) for locking said on-off switch composed of said actuating button.

Happe further discloses a locking mechanism that has an actuating element (e.g., 36-38) situated on a side of the handle which is located on a plane that is perpendicular to the plane of the on-off switch, and wherein the actuating element comprises a pin (e.g., 38) that is configured to be inserted independently into a through opening (e.g., 39) of the actuating button for locking the actuating button in an on-position.

**Happe lacks** a second actuating element as follows:

wherein said locking mechanism has at least two decoupled actuating elements, wherein said actuating elements are situated on opposite sides of said handle, wherein said opposite sides of said handle are located in two parallel planes and wherein said on-off switch is located on a further side of said handle located on a plane that is perpendicular to the planes of said opposite sides of said handle, and wherein each of said at least two actuating elements comprises a respective pin, wherein each of said pins is configured to be inserted independently of each other into a through opening of said actuating button for locking said actuating button in an on-position;

[claim 30] wherein said actuating elements are comprised of separate components.

However, the Examiner takes Official notice that it is old and well known in the art to provide actuating elements for a locking mechanism on opposite sides of a handle for various well known benefits including accommodating use of the tool with either hand. Chen discloses just one example of providing such actuating elements on opposite sides of the handle in the manner claimed and teaches that such a configuration accommodates both the right- and left-handed user (e.g., see the abstract and the second paragraph in col. 4). Therefore, it would have been obvious to one having ordinary skill in the art to provide a second actuating element on the opposite side of the handle of Happe to gain the well known benefits including that described above.

#### ***Allowable Subject Matter***

7. Claims 1, 3-6, 10, 19-21, 24 and 25 appear that they would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
February 1, 2011